



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Animal Cruelty

The Wisconsin Statutes prohibit cruelty to an animal that causes unnecessary and excessive pain or suffering, unjustifiable injury, or death to the animal. The statutes also explicitly prohibit certain specific acts of cruelty, such as animal fighting, or harassment of a police or fire animal.

Each type of cruelty to an animal is punishable by a court, with the punishment ranging from a civil forfeiture to a Class H felony. Also, for each type of cruelty to an animal, a court may order any animal to be surrendered, and may prohibit ownership of any animal for up to five years. For each type of cruelty to an animal that results in a misdemeanor or felony conviction, a court must order restitution from the offender.

This Information Memorandum describes the current statutes and penalties regarding cruelty to an animal.

#### **STATUTES PROHIBIT ANIMAL CRUELTY**

Current law prohibits cruelty to animals. The law provides that “no person may treat any animal, whether belonging to the person or another, in a cruel manner.” [s. 951.02, Stats.] The law contains an exception for normal and accepted veterinary practices, and for bona fide experiments for scientific research. It also does not affect regulations applying to captive wildlife under ch. 169, Stats., fish and game regulations under ch. 29, Stats., and the slaughter of animals by persons acting under state or federal law. [s. 951.015, Stats.]

An animal is defined broadly to include every living warm-blooded creature (except a human), and a reptile or amphibian. [s. 951.01 (1), Stats.]

Cruelty is defined broadly to mean unnecessary and excessive pain or suffering, unjustifiable injury, or death. [s. 951.01 (2), Stats.]

Some specific acts of cruelty are also explicitly prohibited. For example:

- Killing by decompression. [s. 951.025, Stats.]
- Leading an animal from a motor vehicle on a highway. [s. 951.04, Stats.]

- Exposing a domestic animal to a poisonous or controlled substance. [s. 951.06, Stats.]
- Attaching a bristle bur or using a pole device that is charged with electricity or studded with nails or tacks. [s. 951.07, Stats.]
- Cockfighting, dogfighting, bullfighting, or any other kind of fighting, including between an animal and a human. [s. 951.08, Stats.]
- Shooting at a caged, staked, or otherwise confined animal. [s. 951.09, Stats.]
- Harassing a police or fire animal or a service dog. [ss. 951.095 and 951.097, Stats.]
- Failing to provide sufficient food and water or proper shelter to an animal. [ss. 951.13 and 951.14, Stats.]
- Abandoning an animal. [s. 951.15, Stats.]

## **PENALTIES**

### ***FELONIES, MISDEMEANORS, AND FORFEITURES***

#### ***General Cruelty Penalties in s. 951.18 (1), Stats.***

For most of the types of cruelty, an offense without intent, recklessness, or negligence is subject to a Class C forfeiture, which cannot exceed \$500. For an offense within three years of a humane officer issuing an abatement order, the penalty is a Class A forfeiture, which cannot exceed \$10,000.

For most of the types of cruelty, an intentional or negligent violation is subject to a Class A misdemeanor, which carries a fine not to exceed \$10,000, nine months in jail, or both.

An intentional violation of the general cruelty statute, which results in the mutilation, disfigurement, or death of an animal, is subject to a Class I felony, which carries a fine not to exceed \$10,000, three years and six months in prison, or both.

#### ***Animal Fighting Penalties in s. 951.18 (2), Stats.***

Animal fighting, or possessing or training an animal for fighting, for a first offense, is subject to a Class I felony, which carries a fine not to exceed \$10,000, three years and six months in prison, or both. A second or later offense is subject to a Class H felony, which carries a fine not to exceed \$10,000, six years in prison, or both.

Intentionally being a spectator at an animal fight, or owning or possessing an animal within five years of a conviction for animal fighting, is subject to a Class A misdemeanor, which carries a fine not to exceed \$10,000, nine months in jail, or both.

***Harassment of a Police or Fire Animal Penalties in s. 951.18 (1) and (2m), Stats.***

Harassing a police or fire animal, without intent, recklessness, or negligence is subject to a Class B forfeiture, which carries a fine not to exceed \$1,000.

Intentionally or negligently harassing a police or fire animal, while knowing that the animal is a police or fire animal, is subject to a Class A misdemeanor, which carries a fine not to exceed \$10,000, nine months in jail, or both. Intentionally mistreating or poisoning a police animal, which results in injury of the animal, while knowing that the animal is a police animal, is subject to a Class I felony, which carries a fine not to exceed \$10,000, three years and six months in prison, or both.

Intentionally harassing a police or fire animal, which results in the death of the animal, while knowing that the animal is a police or fire animal, is subject to a Class H felony, which carries a fine not to exceed \$10,000, six years in prison, or both.

***Interference with a Service Dog Penalties in s. 951.18 (2s), Stats.***

Recklessly interfering with a service dog, or allowing a dog to interfere with a service dog, while knowing that the animal is a service dog, is subject to a Class B misdemeanor, which carries a fine not to exceed \$1,000, 90 days in jail, or both. Intentionally interfering with a service dog, intentionally allowing a dog to interfere with a service dog, recklessly injuring a service dog, or recklessly allowing a dog to injure a service dog while knowing that the animal is a service dog, is subject to a Class A misdemeanor, which carries a fine not to exceed \$10,000, nine months in jail, or both.

Intentionally injuring a service dog, intentionally allowing a dog to injure a service dog, or recklessly causing the death of a service dog, while knowing that the animal is a service dog, is subject to a Class I felony, which carries a fine not to exceed \$10,000, three years and six months in prison, or both.

Intentionally causing the death of a service dog, or intentionally taking a service dog, is subject to a Class H felony, which carries a fine not to exceed \$10,000, six years in prison, or both.

***INJUNCTIONS***

For each type of cruelty to an animal, a court may prohibit the offender from owning, possessing, or training any animal for any length of time specified by the court, which cannot exceed five years. [s. 951.18 (4) (c), Stats.]

In the case of animal fighting, a court must prohibit an offender from owning, possessing, or training any animal for five years. [s. 951.08 (2m), Stats.]

Also, for each type of cruelty to an animal, a court may order an offender to surrender any animal the offender owns to the local humane officer or humane society, if the court considers the order to be reasonable and appropriate. [s. 951.18 (4) (b), Stats.] A court may give a

temporary or permanent injunction ordering any offender not to commit any acts of animal cruelty. [s. 951.18 (3), Stats.]

***RESTITUTION***

For each type of cruelty to an animal resulting in a misdemeanor or felony conviction, a court must order restitution from the offender to the animal's owner and any local humane officer or humane society, for any pecuniary loss suffered from the offense. Pecuniary expenses include the monetary value of the animal, medical expenses, out-of-pocket costs associated with filing charges and cooperating with investigation and prosecution, and expenses in keeping the animal. [s. 951.18 (4) (a), Stats.]

For a police or fire animal, or a service dog, expenses include the value of a replacement animal, the cost of training a replacement animal or retraining the affected animal, all related veterinary and care expenses, medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user. For a service dog, the value of a replacement service dog is the value to its user, and not its actual cost or fair market value. [s. 951.18 (4) (a) 1. d. to f., Stats.]

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Margit Kelley, Staff Attorney, on June 28, 2011.

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